

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**HANCOCK WHITNEY BANK**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 2:20-cv-100-TBM-MTP**

**PHILADELPHIA INDEMNITY  
INSURANCE COMPANY**


**DEFENDANT**

**ORDER DENYING PARTIAL MOTION FOR SUMMARY JUDGMENT  
AS PREMATURE**

Now before the Court is Defendant Philadelphia Indemnity Insurance Company's ("Philadelphia") Motion for Partial Summary Judgment [14], which requests that the Court determine the legal priority of the parties' claims to contract balances at issue. Philadelphia's Motion, however, was filed before any discovery was exchanged, and well before the discovery deadline, which has not yet passed. In its Motion, Philadelphia admits that "there may be some dispute over the exact amount of unpaid progress payments or the exact amount of damages" and that there are fact intensive issues "that will require a great deal of discovery . . ." [15] at pg. 10, 14. Accordingly, the Motion is premature and should be denied without prejudice to Philadelphia Indemnity Insurance Company's right to re-file at the appropriate stage of this litigation. *See Arc Controls, Inc. v. M/V Nor Goliath*, No. 1:19-cv-391-LG, 2020 WL 1678237 (S.D. Miss. Apr. 6, 2020) (collecting cases).

IT IS THEREFORE ORDERED AND ADJUDGED that Philadelphia Indemnity Insurance Company's Motion for Partial Summary Judgment [14] is DENIED as premature, WITHOUT PREJUDICE.

This, the 25th day of March, 2021.

  
TAYLOR B. McNEEL  
UNITED STATES DISTRICT JUDGE